

REMARKS

Claims 1-30 remain pending in the application, with claims 1, 8, 16, 19 and 24 being the independent claims. Independent claims 1, 8, 16, 19 and 24 are sought to be amended. Entry and consideration of this Amendment is respectfully requested. No new matter is believed to have been introduced by this Amendment.

Applicant has made the above Amendment to more particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Based on the above Amendment and the following Remarks, Applicant respectfully requests that the Examiner reconsider and withdraw all outstanding rejections.

Rejections under 35 U.S.C. §§ 102(b) and 103(a)

Claims 1, 4, 6-9, 11, 13, 15, 16, 19, 21-24, 27, 29 and 30 are rejected under 35 U.S.C. § 102(b) as being allegedly unpatentable over U.S. Patent No. 5,758,257 (hereinafter referred to as "Herz"). Claims 2, 3, 10, 20, 25 and 26 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Herz and further in view of U.S. Patent No. 6,018,359 (hereinafter referred to as "Kermode"). Claims 5, 12, 18 and 28 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Herz and further in view of U.S. Patent No. 6,801,936 (hereinafter referred to as "Diwan"). Claim 17 is rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Herz and further in view of U.S. Patent No. 5,544,161 (hereinafter referred to as "Bigham"). Claim 14 is rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Herz and further in view of U.S. Patent No. 6,530,082

(hereinafter referred to as "Del Sesto"). Applicant respectfully traverses these rejections for at least the following reason.

Independent claims 1, 8, 16, 19 and 24 have been amended to include a similar feature of: creating a playlist based on said user preferences, wherein the playlist to represent an ordered list of content; and determining, based on the playlist, a data rate and time to transmit the playlist to the receiver. Support for the Amendment can be found in the specification at least on page 14, paragraphs 0045-0048. Herz, Kermode, Diwan, Bigham and Del Sesto, either taken alone or in combination, do not teach or suggest this feature. For at least this reason, independent claims 1, 8, 16, 19 and 24 and their respective dependent claims 2-7, 9-15, 17, 18, 20-23 and 25-30 are distinguishable from Herz, Kermode, Diwan, Bigham and Del Sesto, either taken alone or in combination. Accordingly, Applicants respectfully request that the rejections to these claims under 35 U.S.C. §§ 102(b) and 103(a) be reconsidered and withdrawn.

INVITATION FOR A TELEPHONE INTERVIEW

The Examiner is invited to call the undersigned, Molly A. McCall, at (703) 633-3311 if there remains any issue with allowance of the case.

CONCLUSION

Applicant respectfully submits that all of the stated grounds of rejection have been properly traversed accommodated or rendered moot. Thus, Applicant believes that the present application is in condition for allowance, and as such, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections, and allowance of this application.

Respectfully submitted,

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